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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

ALLENE HUTCHINSON, an  
Individual and as a Successor in  
Interest to Demouria Maurice Hogg;  
THE ESTATE OF DEMOURIA  
MAURICE HOGG; S.J.H., a minor  
and as a Successor in Interest to  
Demouria Maurice Hogg by and  
through her Guardian Ad Litem,  
DESIREE RICHARD, and DOES  
1-10 inclusive,

*Plaintiffs,*

vs.

THE CITY OF OAKLAND; and  
DOES 1-10, Inclusive,

*Defendants.*

CASE NO.:

**COMPLAINT FOR DAMAGES**

- 1. Unreasonable Search and Seizure - Detention and Arrest  
42 U.S.C. § 1983**
- 2. Excessive Force and Denial of Medical Care - 42 U.S.C. § 1983**
- 3. Substantive Due Process - 42 U.S.C. § 1983**
- 4. Interference with Familial Relationship and Freedom of Association - 42 U.S.C. § 1983**
- 5. Municipal Liability for Unconstitutional Custom or Policy - 42 U.S.C. § 1983**
- 6. False Arrest – Wrongful Death**
- 7. Battery - Cal. Govt. Code § 820 – Wrongful Death**
- 8. Negligence – Cal. Govt. Code § 820 – Wrongful Death**

**JURY TRIAL DEMANDED**

COMES NOW ALLENE HUTCHINSON, an Individual and as a Successor in Interest to Demouria Maurice Hogg; THE ESTATE OF DEMOURIA MAURICE HOGG; S.J.H, a minor and as a Successor in Interest to Demouria Maurice Hogg by and through her Guardian Ad Litem, DESIREE RICHARD and DOES 1-10, Inclusive, allege as follows:

## INTRODUCTION

1. This civil rights action seeks compensatory and punitive damages from Defendants for violating various rights under the United States Constitution and state law in connection with the fatal police shooting of the DECEDENT, Demouria Hogg.

## PARTIES

2. At all relevant times herein, THE ESTATE OF DEMOURIA HOGG (hereinafter referred to as “DECEDENT”) was an individual residing in the City of Oakland, County of Alameda, California.

3. At all relevant times herein, Plaintiff ALLENE HUTCHINSON was an individual residing in the City of Oakland, County of Alameda, California and is the natural mother of DECEDENT. ALLENE HUTCHINSON sues in her individual capacity and as a representative of the ESTATE OF DEMOURIA HOGG. DECEDENT was ALLENE HUTCHINSON’s son.

4. At all relevant times herein, Plaintiff S.J.H. was a minor residing in the City of Oakland, County of Alameda, California and is the biological daughter of DECEDENT. S.J.H. sues in her individual capacity and as a Successor in Interest to DEMOURIA HOGG by and through her Guardian Ad Litem, DESIREE RICHARD. S.J.H. sues as the surviving child of DECEDENT pursuant to Section

1 377.60 of the California Code of Civil Procedure and as a Successor in Interest to  
2 DEMOURIA HOGG.

3 5. At all relevant times herein, Defendant THE CITY OF OAKLAND  
4 (hereinafter "City") is an incorporated public entity duly authorized and existing as  
5 such in and under the laws of the State of California; and at all times herein  
6 mentioned, Defendant CITY has possessed the power and authority to adopt  
7 policies and prescribe rules, regulations and practices affecting the operation of the  
8 Oakland Police Department and its tactics, methods, practices, customs and usage.  
9 At all relevant times, Defendant CITY was the employer of DOES Defendants,  
10 individually and as a peace officers.

11 6. At all relevant times, DOES Defendants, individually and as a peace  
12 officers; were duly authorized employees and agents of CITY, who were acting  
13 under color of law within the course and scope of their respective duties as police  
14 officers and within the complete authority and ratification of their principal,  
15 Defendant CITY.

16 7. At all relevant times, Defendants individually and as peace officers;  
17 were duly appointed officers and/or employees or agents of CITY, subject to  
18 oversight and supervision by CITY's elected and non-elected officials.

19 8. In doing the acts and failing and omitting to act as hereinafter  
20 described, Defendants, individually and as peace officers; were acting on the  
21 implied and actual permission and consent of the CITY.

22 9. At all times mentioned herein, each and every CITY defendant was  
23 the agent of each and every other CITY defendant and had the legal duty to  
24 oversee and supervise the hiring, conduct and employment of each and every CITY  
25 defendant.  
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1           10. At all relevant times, Defendants, individually and as peace officers;  
2 were working for Defendant CITY as police officers.

3           11. Plaintiffs are unaware of the true names and capacities of those  
4 Defendants named herein as DOES 1-10 Defendants. Plaintiffs will amend this  
5 Complaint to allege said Defendants' true names and capacities when that  
6 information becomes known to Plaintiffs. Plaintiffs are informed and believes, and  
7 thereon alleges that these DOES 1-10 are legally responsible and liable for the  
8 incident, injuries, and damages hereinafter set forth, and that each of said  
9 Defendants proximately caused the injuries and damages by reason of negligent,  
10 careless, deliberately indifferent, intentional, willful, or wanton misconduct,  
11 including the negligent, careless, deliberately indifferent, intentional, willful, or  
12 wanted misconduct in creating and otherwise causing the incidents, conditions, and  
13 circumstances hereinafter set forth, or by reason of direct or imputed negligence or  
14 vicarious fault or breach of duty arising out of the matters herein alleged. Plaintiffs  
15 will seek to amend this Complaint to set forth said true names and identities of the  
16 unknown named DOE Defendants when they are ascertained.

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18           12. On July 7, 2015, Plaintiffs filed comprehensive and timely claim for  
19 damages with CITY pursuant to applicable sections in the California Government  
20 Code and California Civil Code.

21           13. CITY rejected said claim for damage by operation of law.

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**JURISDICTION**

14. This civil action is brought for the redress of alleged deprivations of constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, and 1988, and the First, Fourth and Fourteenth Amendments of the United States Constitutions. Jurisdiction is founded on 28 U.S.C. §§ 1331, 1343, and 1367.

15. Venue is proper in this Court under 28 U.S.C. § 1391(b) and (c), because Defendants reside in, and all incidents, events, and occurrences giving rise to this action occurred in, the County of Alameda, California.

**FACTS COMMON TO ALL CAUSES OF ACTION**

16. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 20 of this Complaint with the same force and effect as if fully set forth herein.

17. On Saturday, June 6, 2015, at approximately 7:27 a.m., DECEDENT was shot and killed while in his car in or around the area of Lakeshore off-ramp of the Westbound Highway 580, in the City of Oakland, California.

18. On information and belief, DECEDENT had not committed any crime. Defendants, individually and as peace officers; who were CITY police officers, had neither reasonable suspicion to detain DECEDENT nor probable cause to arrest him.

19. Defendants, individually and as peace officers; while acting in the course and scope of their employment with CITY, negligently assessed the circumstances presented to them and violently confronted DECEDENT without having probable cause to believe that DECEDENT had committed a crime, or would commit a crime in the future.

1           20. Without warning, Defendants, individually and as peace officers;  
2 broke DECEDENTS automobile driving side front and passenger windows  
3 proceeded to assault and batter DECEDENT by acts which included, but were not  
4 limited to, repeatedly and unjustifiably firing two deadly rounds from her  
5 department issued firearm while another officer simultaneously deployed a taser  
6 striking DECEDENT all over his body, which proved to be fatal. DECEDENT  
7 died as a proximate and direct cause of gun-shot wounds.

8           21. At no time during the course of these events did DECEDENT pose  
9 any reasonable threat of violence to the defendant officers, nor did he do anything  
10 to justify the use of deadly, excessive, unreasonable, unlawful and unnecessary  
11 force against him, by the defendant officers.

12           22. Both prior to and during the time in which DECEDENT was shot and  
13 killed by Defendants, he posed no reasonable or credible threat of violence to  
14 Defendants, nor to any other individual. In fact, just moments before he was shot  
15 and killed, DECEDENT was unconscious.

16           23. Both prior to and during the time in which DECEDENT was tased and  
17 shot to death by defendants, DECEDENT made no aggressive movements, no  
18 furtive gestures, and no physical movements which would suggest to a reasonable  
19 officer that the DECEDENT had the will, or the ability to inflict substantial bodily  
20 harm against any individual or officer.

21           24. DECEDENT was tased and shot to death at the scene of the incident  
22 by the Defendants.

23           25. On information and belief, Defendants individually and as peace  
24 officers had no information that DECEDENT had committed any crime.

25           26. ALLENE HUTCHINSON was dependent on the DECEDENT,  
26 including financially dependent.  
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1           27. Minor, S.J.H. was dependent on the DECEDENT, including  
2 financially dependent.

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4                           **FIRST CAUSE OF ACTION**

5           **Unreasonable Search and Seizure - Detention and Arrest 42 U.S.C. § 1983**  
6           **(Plaintiffs ALLENE HUTCHINSON, S.J.H. and THE ESTATE OF**  
7           **DEMOURIA HOGG against all Defendants and DOES 1-10, inclusive)**

8           28. Plaintiffs repeat and reallege each and every allegation in paragraphs  
9 1 through 27 of this Complaint with the same force and effect as if fully set forth  
10 herein.

11           29. Defendants, individually and as peace officers; caused DECEDENT  
12 to be detained and arrested in violation of his right to be secure in his person  
13 against unreasonable searches and seizures as guaranteed to DECEDENT under  
14 the Fourth Amendment to the United States Constitution and applied to state actors  
15 by the Fourteenth Amendment.

16           30. As a result of the conduct of Defendants, individually and as peace  
17 officers; they are liable for DECEDENT's injuries, either because they were  
18 integral participants in the wrongful detention and arrest, or because they failed to  
19 intervene to prevent violations.

20           31. The DECEDENT was detained without reasonable suspicion and  
21 arrested without probable cause.

22           32. The conduct of Defendants, individually and as peace officers was  
23 willful, wanton, malicious, and done with reckless disregard for the rights and  
24 safety of DECEDENT and therefore warrants the imposition of exemplary and  
25 punitive damages as to Defendants.  
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1 33. ALLENE HUTCHINSON and S.J.H. seek damages as successors-in-  
2 interest to DECEDENT and representative of the DECEDENT's estate.

3 34. Plaintiffs also seek attorney fees under this claim pursuant to 42  
4 U.S.C. § 1988.

## 5 SECOND CAUSE OF ACTION

### 6 Excessive Force and Denial of Medical Care 42 U.S.C. § 1983

7 (Plaintiffs ALLENE HUTCHINSON, S.J.H. and the ESTATE OF  
8 DEMOURIA HOGG against all Defendants and DOES 1-10, Inclusive)

9 35. Plaintiffs repeat and reallege each and every allegation in paragraphs  
10 1 through 34 of this Complaint with the same force and effect as if fully set forth  
11 herein.

12 36. Defendants, individually and as peace officers, unjustified tasing and  
13 shooting deprived DECEDENT on his right to be secure in his person against  
14 unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth  
15 Amendment of the United States Constitution and applied to state actors by the  
16 Fourteenth Amendment.

17 37. The unreasonable use of force by Defendants, individually and as  
18 peace officers, deprived the DECEDENT of his right to be secure in his person  
19 against unreasonable searches and seizures as guaranteed to DECEDENT under  
20 the Fourth Amendment of the United States Constitution and applied to state actors  
21 by the Fourteenth Amendment.

22 38. As a result, DECEDENT suffered extreme pain and suffering and  
23 eventually suffered a loss of life and of earning capacity for which THE ESTATE  
24 OF DEMOURIA HOGG is entitled to recover damages. Plaintiffs have also been  
25 deprived of their life-long love, companionship, comfort, support, society, care,  
26 and sustenance of DECEDENT, and will continue to be so deprived for the  
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1 remainder of their natural lives. Plaintiffs are also claiming funeral and burial  
2 expenses, loss of gifts and benefits and loss of financial support.

3 39. As a result of the conduct of Defendants, individually and as peace  
4 officers, they are liable for DECEDENT's injuries, either because they were  
5 integral participants in the excessive force, or because they failed to intervene to  
6 prevent these violations.

7 40. Defendants, individually and as peace officers, knew or should have  
8 known that failure to provide timely medical treatment to DECEDENT could result  
9 in further significant injury or the unnecessary and wanton infliction of pain, but  
10 disregarded that serious medical need, causing him great bodily harm and death.

11 41. This use of deadly force was excessive and unreasonable under the  
12 circumstances, especially since DECEDENT had done nothing violent before,  
13 during and after he tased and shot to death. Defendants' actions, individually and  
14 as peace officers, thus deprived DECEDENT of his right to be free from  
15 unreasonable searches and seizures under the Fourth Amendment and applied to  
16 state actors by the Fourteenth Amendment.

17 42. The conduct of Defendants, individually and as peace officers, was  
18 willful, wanton, malicious, and done with reckless disregard for the rights and  
19 safety of DECEDENT and therefore warrants the imposition of exemplary and  
20 punitive damages as to Defendants.

21 43. ALLENE HUTCHINSON and S.J.H. seek damages as successors-in-  
22 interest to DECEDENT and representative of the DECEDENT's estate.

23 44. Plaintiffs also seek attorney fees under this claim pursuant to 42  
24 U.S.C. § 1988.

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**THIRD CAUSE OF ACTION**

**Substantive Due Process - 42 U.S.C. § 1983**

**(Plaintiffs ALLENE HUTCHINSON, S.J.H. against all Defendants and DOES  
1-10, Inclusive)**

45. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 44 of this Complaint with the same force and effect as if fully set forth herein.

46. ALLENE HUTCHINSON and S.J.H. had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive them from life, liberty, or property in such a manner as to shock the conscious, including but not limited to, unwarranted state interference in Plaintiffs' familial relationship with DECEDENT.

47. DECEDENT had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive them from life, liberty, or property in such a manner as to shock the conscious.

48. As a result of the simultaneously tasing and shooting by the Defendants, individually and as peace officers, DECEDENT died. ALLENE HUTCHINSON and S.J.H. were thereby deprived of their constitutional right of familial relationship with DECEDENT.

49. Defendants, individually and as peace officers, acting under the color of state law, thus violated the Fourteenth Amendment of ALLENE HUTCHINSON and S.J.H. to be free from unwarranted interference with their familial relationship with DECEDENT.

1           50. The aforementioned actions of Defendants, individually and as peace  
2 officers, along with other undiscovered conduct, shook the conscious, in that they  
3 acted with deliberate indifference to the constitutional rights of DECEDENT,  
4 ALLENE HUTCHINSON and S.J.H. and with purpose to harm unrelated to any  
5 legitimate law enforcement objective.

6           51. As a direct and proximate cause of the acts of the Defendants,  
7 individually and as peace officers, DECEDENT experienced severe pain and  
8 suffering and lost his life and earning capacity for which THE ESTATE OF  
9 DEMOURIA HOGG is entitled to recover damages. Plaintiffs have also been  
10 deprived of their life-long love, companionship, comfort, support, society, care and  
11 sustenance of DECEDENT, and will continue to be so deprived for the remainder  
12 of their natural lives. Plaintiffs are also claiming funeral and burial expenses, loss  
13 of gifts and benefits and a loss of financial support.

14           52. The conduct of Defendants, individually and as peace officers, was  
15 willful, wanton, malicious, and done with reckless disregard for the rights and  
16 safety of DECEDENT and therefore warrants the imposition of exemplary and  
17 punitive damages as to Defendants.

18           53. ALLENE HUTCHINSON and S.J.H. seek punitive damages.

19           54. Plaintiffs also seek attorney fees under this claim pursuant to 42  
20 U.S.C. § 1988.

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**FOURTH CAUSE OF ACTION**

**Interference with Familial Relationship and Freedom of Association - 42**

**U.S.C. § 1983**

**(Plaintiffs ALLENE HUTCHINSON and S.J.H. against all Defendants and  
DOES 1-10, Inclusive)**

55. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 54 of this Complaint with the same force and effect as if fully set forth herein.

56. Plaintiffs ALLENE HUTCHINSON and S.J.H. had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive them of life, liberty, or property in such a manner as to shock the conscience, including but not limited to, unwarranted state interference in their familial relationship with their father, DECEDENT.

57. As a result of the excessive force by Defendants, individually and as peace officers; and the failure of Defendants to intervene, DECEDENT died.

Plaintiffs ALLENE HUTCHINSON and S.J.H. were thereby deprived of their constitutional right and familial relationship with DECEDENT.

58. Defendants, individually and as peace officers, acting under color of state law, thus violated the Fourteenth and Amendment rights of ALLENE HUTCHINSON and S.J.H. to be free from unwarranted interference with their familial relationship with DECEDENT.

59. The aforementioned actions of Defendants, individually and as peace officers, along with other undiscovered conduct, shock the conscience, in that they acted with deliberate indifference to the constitutional rights of DECEDENT,

1 Plaintiffs ALLENE HUTCHINSON and S.J.H. and with purpose to harm unrelated  
2 to any legitimate law enforcement objective.

3 60. As a direct and proximate cause of the acts of Defendants,  
4 individually and as peace officers, Plaintiffs have also been deprived of the life-  
5 long comfort, support, society, care and sustenance of DECEDENT, and will  
6 continue to be so deprived for the remainder of their natural lives. Plaintiffs are  
7 also claiming funeral and burial expenses, loss of gifts and benefits and a loss of  
8 financial support.

9 61. The conduct of Defendants, individually and as peace officers, and  
10 was malicious, oppressive and in reckless disregard for the rights and safety of  
11 DECEDENT and Plaintiffs, and therefore warrants the imposition of exemplary  
12 and punitive damages as to Defendants.

13 62. Decedent's successors-in-interest seek wrongful death damages under  
14 this claim.  
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16 **FIFTH CAUSE OF ACTION**

17 **Municipal Liability for Unconstitutional Custom or Policy - 42 U.S.C. § 1983**  
18 **(Plaintiffs ALLENE HUTCHINSON, S.J.H., THE ESTATE OF DEMOURIA**  
19 **HOGG against Defendant CITY)**  
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21 63. Plaintiffs repeat and reallege each and every allegation in paragraphs  
22 1 through 62 of this Complaint with the same force and effect as if fully set forth  
23 herein.

24 64. On information and belief Defendants' conduct, individually and as  
25 peace officers, who tased and shot DECEDENT to death, was ratified by CITY's  
26 police department supervisorial officers.  
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1           65. On information and belief, Defendants were not disciplined for killing  
2 DECEDENT, who did not pose a risk to Defendants.

3           66. On and for some time prior to June 6, 2015, (and continuing to the  
4 present day) Defendants, individually and as peace officers, deprived Plaintiffs and  
5 DECEDENT of the rights and liberties secured to them by the Fourteenth  
6 Amendment to the United States Constitution, in that said defendants and their  
7 supervising and managerial employees, agents, and representatives, acting with  
8 gross negligence and with reckless and deliberate indifference to the rights and  
9 liberties of the public in general, and of Plaintiffs and DECEDENT, and of persons  
10 in their class, situation and comparable position in particular, knowingly  
11 maintained, enforced and applied an official recognized custom, policy, and  
12 practice of:

- 13           **a.** Employing and retaining as police officers and other personnel,  
14 including Defendants, individually and as peace officers; who  
15 at all times material herein knew or reasonably should have  
16 known had dangerous propensities for abusing their authority  
17 and for mistreating citizens by failing to follow written CITY  
18 Police Department policies, including the use of excessive and  
19 deadly force;  
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21           **b.** Of inadequately supervising, training, controlling, assigning,  
22 and disciplining CITY Police officers, and other personnel,  
23 including Defendants who CITY knew or in the exercise of  
24 reasonable care should have known had the aforementioned  
25 propensities and character traits, including the propensity for  
26 violence and the use of excessive force;  
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- c. By maintaining grossly inadequate procedures for reporting, supervising, investigating, reviewing, disciplining and controlling the intentional misconduct by Defendants who are Police Officers of CITY;
- d. By failing to discipline CITY Police Officers' conduct, including but not limited to, unlawful detention and excessive and deadly force;
- e. By ratifying the intentional misconduct of Defendants and other officers who are Police Officers of CITY;
- f. By having and maintaining an unconstitutional policy, custom and practice of detaining and arresting individuals without probable cause or reasonable suspicion, and using excessive force, including deadly force, which also is demonstrated by inadequate training regarding these subjects. The policies, customs and practices of Defendants were done with a deliberate indifference to individuals' safety and rights; and
- g. By failing to properly investigate claims of unlawful detention and excessive force by CITY Police Officers.

67. By reason of the aforementioned policies and practices of Defendants, individually and as peace officers, DECEDENT was severely injured and subjected to pain and suffering and lost his life and earning capacity for which THE ESTATE OF DEMOURIA HOGG is entitled to recover damages.

68. Defendants, individually and as peace officers, together with various other officials, whether named or unnamed, had either actual or constructive knowledge of the deficient policies, practices and customs alleged in the paragraphs above. Despite having knowledge as stated above these defendants

1 condoned, tolerated and through actions and inactions thereby ratified such  
2 policies. Said defendants also acted with deliberate indifference to the foreseeable  
3 effects and consequences of these policies with respect to the constitutional rights  
4 of DECEDENT, Plaintiffs, and other individuals similarly situated.

5 69. By perpetrating, sanctioning, tolerating and ratifying the outrageous  
6 conduct and other wrongful acts, Defendants, individually and as peace officers;  
7 acted with an intentional, reckless, and callous disregard for the life of  
8 DECEDENT, and DECEDENT's and Plaintiffs' constitutional rights. Each of  
9 their actions were willful, wanton, oppressive, malicious, fraudulent, and  
10 extremely offensive and unconscionable to any person of normal sensibilities.

11 70. Furthermore, the policies practices, and customs implemented and  
12 maintained and still tolerated by Defendants, individually and as peace officers;  
13 were affirmatively linked to and were significantly influential force behind the  
14 injuries of DECEDENT and Plaintiffs.

15 71. By reason of the aforementioned acts and omissions of Defendants,  
16 individually and as peace officers, Plaintiffs were caused to incur funeral and  
17 related burial expenses, loss of gifts and benefits and loss of financial support.

18 72. By reason of the aforementioned acts and omissions of Defendants,  
19 individually and as peace officers, Plaintiffs have suffered loss of love,  
20 companionship, affection, comfort, care, society, and future support.

21 73. Accordingly, Defendants, individually and as peace officers, each are  
22 liable to Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

23 74. Plaintiffs seek wrongful death damages under this claim.

24 75. Plaintiffs also seek attorney fees under this claim.

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**SIXTH CAUSE OF ACTION**

**False Arrest – Wrongful Death**

**(Plaintiffs ALLENE HUTCHINSON, S.J.H. and THE ESTATE OF DEMOURIA HOGG against all Defendants and DOES 1-10, Inclusive)**

76. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 75 of this Complaint with the same force and effect as if fully set forth herein.

77. Defendants, individually and as peace officers, while working as Police Officers for CITY, and acting within the scope of their duties, intentionally deprived DECEDENT of his freedom of movement by use of force, including deadly force, threats of force, menace, fraud, deceit and unreasonable duress. Defendants, individually and as peace officers, also detained DECEDENT. Said detention was made without reasonable suspicion. There was an attempt to arrest DECEDENT. Said arrest was attempted without probable cause.

78. DECEDENT did not knowingly or voluntarily consent.

79. The conduct of Defendants, individually and as peace officers; and was a substantial factor in causing the harm to DECEDENT.

80. CITY is vicariously liable for the wrongful acts of Defendants, individually and as peace officers; pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

81. The conduct of Defendants, individually and as peace officers; was malicious, wanton, oppressive, and accomplished with a conscious disregard for the rights of DECEDENT, entitling Plaintiffs to an award of exemplary and punitive damages.

1 82. ALLENE HUTCHINSON was dependent on the DECEDENT,  
2 including financially dependent.

3 83. S.J.H. was dependent on the DECEDENT, including financially  
4 dependent.

5 84. Plaintiffs are seeking wrongful death damages under this claim.  
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7 **SEVENTH CAUSE OF ACTION**

8 **Battery - Cal. Govt. Code § 820 – Wrongful Death**

9 **(Plaintiffs ALLENE HUTCHINSON, S.J.H. and THE ESTATE OF**  
10 **DEMOURIA HOGG against all Defendants and DOES 1-10, Inclusive)**

11 85. Plaintiffs repeat and reallege each and every allegation in paragraphs  
12 1 through 84 of this Complaint with the same force and effect as if fully set forth  
13 herein.  
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15 86. Defendants, individually and as peace officers, while working as a  
16 Police Officer for the CITY Police Department, and acting within the course and  
17 scope of their duties, intentionally tased and shot DECEDENT to death. As a  
18 result of the actions by the defendants, DECEDENT suffered severe pain and  
19 suffering and ultimately died from his injuries and lost earning capacity for which  
20 THE ESTATE OF DEMOURIA HOGG is entitled to recover damages.  
21 Defendants had no legal justification for using force against DECEDENT, and said  
22 defendants' force was unreasonable, especially since DECEDENT did not commit  
23 any crime when he was shot to death.

24 87. As a direct and proximate result of defendants' conduct as alleged  
25 above, Plaintiffs suffered extreme and severe mental anguish and pain and have  
26 been injured in mind and body. Plaintiffs also have been deprived of their life-long  
27 love, companionship, comfort, support, society, care and sustenance of  
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1 DECEDENT, and will continue to be so deprived for the remainder of their natural  
2 lives. Plaintiffs also are claiming funeral and burial expenses, loss of gifts and  
3 benefits and loss of financial support.

4 88. CITY is vicariously liable for the wrongful acts of Defendants,  
5 individually and as peace officers, pursuant to section 815.2(a) of the California  
6 Government Code, which provides that a public entity is liable for injuries causes  
7 by its employees within the scope of the employment if the employee's act would  
8 subject him or her to liability.

9 89. The conduct of Defendants, individually and as peace officers, was  
10 malicious, wanton, oppressive, and accomplished with a conscious disregard for  
11 the rights of DECEDENT, entitling Plaintiffs to an award of exemplary and  
12 punitive damages.

13 90. ALLENEHUTCHINSON was dependent on the DECEDENT,  
14 including financially dependent.

15 91. S.J.H. was dependent on the DECEDENT, including financially  
16 dependent.

17 92. Plaintiffs are seeking wrongful death damages under this claim.  
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## 20 **EIGHTH CAUSE OF ACTION**

### 21 **Negligence – Cal. Govt. Code § 820 – Wrongful Death**

22 **(Plaintiffs ALLENE HUTCHINSON, S.J.H. and THE ESTATE OF**  
23 **DEMOURIA HOGG against all Defendants and DOES 1-10, Inclusive)**

24 93. Plaintiffs repeat and reallege each and every allegation in paragraphs  
25 1 through 92 of this Complaint with the same force and effect as if fully set forth  
26 herein.  
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1           94. The actions and inactions of the Defendants, individually and as  
2 peace officers; were negligent and reckless, including but not limited to:

- 3           a. The failure to properly assess the need to detain, arrest, and use  
4 force or deadly force against DECEDENT;  
5           b. The negligent tactics and handling of the situation with  
6 DECEDENT, including failure to utilize the services of SWAT;  
7           c. The negligent detention, arrest, and use of force, including  
8 deadly force, against DECEDENT;  
9           d. The failure to provide prompt medical care to DECEDENT;  
10          e. The failure to properly train and supervise employees, both  
11 professional and non-professional, including Defendants.  
12          f. The failure to ensure that adequate numbers of employees with  
13 appropriate education and training were available to meet the  
14 needs of and protect the rights of DECEDENT;  
15          g. The negligent handling of evidence and witnesses.

16           95. As a direct and proximate result of defendants' conduct as alleged  
17 above, and other undiscovered negligent conduct, DECEDENT was caused to  
18 suffer severe pain and suffering and ultimately died and lost earning capacity for  
19 which THE ESTATE OF DEMOURIA HOGG is entitled to recover damages.  
20 Also as a direct and proximate result of defendants' conduct alleged above,  
21 Plaintiffs suffered extreme and severe mental anguish and pain and have been  
22 injured in mind and body. Plaintiffs also have been deprived of the life-long love,  
23 companionship, comfort, support, society, care and sustenance of DECEDENT,  
24 and will continue to be so deprived for the remainder of their natural lives.  
25 Plaintiffs are also claiming funeral and burial expenses, loss of gifts and benefits  
26 and loss of financial support.  
27  
28

1           96. CITY is vicariously liable for the wrongful acts of Defendants,  
2 individually and as peace officers, pursuant to section 815.2(a) of the California  
3 Government Code, which provides that a public entity is liable for injuries causes  
4 by its employees within the scope of the employment if the employee's act would  
5 subject him or her to liability.

6           97. ALLENE HUTCHINSON was dependent on the DECEDENT,  
7 including financially dependent.

8           98. S.J.H. was dependent on the DECEDENT, including financially  
9 dependent.

10          99. Plaintiffs are seeking wrongful death damages under this claim.  
11

12           **WHEREFORE**, Plaintiffs requests relief as hereinafter provided.

13                           **PRAYER FOR RELIEF**

14           1. For compensatory damages, including both survival damages and  
15 wrongful death damages under federal and state law, in an amount to be proven at  
16 trial;  
17

18           2. For funeral expenses and loss of financial support;

19           3. For punitive damages against the individual defendants in an amount  
20 to be proven at trial;

21           4. For prejudgment interest;

22           5. For an award of general and special damages in the amount to be  
23 proven at trial;

24           6. For reasonable costs of this suit incurred herein;

25           7. For reasonable attorney's fees and costs as provided by law;

26 ///

27 ///

1           8.     For such further other relief as the Court may deem just, proper and  
2 appropriate.

3  
4 Dated: October 26, 2015

***DOUGLAS / HICKS LAW, APC***

5  
6 By:     \_\_\_\_\_/s/ Jamon R. Hicks\_\_\_\_\_  
7           **JAMON R. HICKS, ESQ.**  
8           Attorneys for Plaintiffs  
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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury.

Dated: October 26, 2015

***DOUGLAS / HICKS LAW, APC***

By:     /s/ Jamon R. Hicks    

**JAMON R. HICKS**

Attorneys for Plaintiffs

# DECLARATION



**DECLARATION OF DESIREE RICHARD, GUADIAN AD LITEM  
FOR S.J.H.**

1. The decedent's name who is the subject of this action for wrongful death is DEMOURIA HOGG.

2. On Saturday, June 6, 2015 at approximately 7:27 a.m., DECEDENT was shot and killed while in his car in or around the area of Lakeshore off-ramp of the Westbound Highway 580, in the City of Oakland, California.

3. No proceeding is now pending in California for administration of the DECEDENT's estate.

4. I am the biological mother of the minor who is the biological child of the DECEDENT.

5. S.J.H. is the DECEDENT's successor in interest (as defined in Section 377.11 of the California Code of Civil Procedure) and succeeds to the DECEDENT's interest in the action or proceeding.

6. D.S.H. and D.M.H. are bringing this claim and are the only persons having the right to commence the action or proceeding.

I declare under penalty of perjury under the law of the State of California that the foregoing is true and correct.

Dated: October 26, 2015

\_\_\_\_/s/ Desiree Richard\_\_\_\_  
Desiree Richard, Declarant